

Summary

Comparison of building legislation according to current and new Civil Code

In my master's thesis I focus on building legislation according to the Civil Code. The building, either as a separate thing or part of other things, is mainly the subject of ownership, but also of other civil relations. Therefore it is very widely used and discussed concept. The main goal of the thesis is to describe in detail concept of building in the current Civil Code, with focus on shortcomings and the most problematic areas, and confront it with changes in the new Civil Code. The purpose is also to provide summary of building issues and possible advantages or disadvantages its enactment in the new Civil Code. I mainly concentrate on different division of things and problems with definition of the term building, which apply to specific examples. Last but not least, the thesis evaluates new building enactment and tries to point out problems that may arise in connection with the transition to the principle superficies solo cedit.

The master's thesis is, apart from the introduction and conclusion, composed of three chapters. Chapter one is introductory and deals with the principle superficies solo cedit, which is the pivotal principle related to building legislation. Describes its development from Roman law, via ABGB, until development in the second half of the 20th century, when the principle was canceled.

Chapter two devotes to building legislation according to the current Civil Code. It examines in detail the most important definition of the building such as separate thing, part of thing and immovable. There are discussed general definitions which are afterward applied to specific examples. Furthermore, there are mentioned advantages and disadvantages of current absence of the principle superficies solo cedit.

Chapter three, final, concentrates to building legislation according to the new Civil Code. It tries to point out potential problems which may arise due to discontinuity, in relation to the introduction of the principle superficies solo cedit. Therefore transitional provisions are discussed here. Furthermore, analyses insufficiency of interpretative rules, mentions the newly introduces terms and examines how division of separate thing, part of thing and immovable have changed in comparison to the current Civil Code.